

**RULES
OF
TENNESSEE BOARD OF MEDICAL EXAMINER'S
COMMITTEE ON PHYSICIAN ASSISTANTS
DIVISION OF HEALTH RELATED BOARDS**

**CHAPTER 0880-10
GENERAL RULES AND REGULATIONS GOVERNING
THE PRACTICE OF AN ORTHOPEDIC PHYSICIAN ASSISTANT**

TABLE OF CONTENTS

0880-10-.01	Definitions	0880-10-.13	Professional Ethics
0880-10-.02	Scope of Practice	0880-10-.14	Reserved
0880-10-.03	Necessity of Licensure	0880-10-.15	Disciplinary Grounds, Actions, and Civil Penalties
0880-10-.04	Qualifications for Licensure	0880-10-.16	License
0880-10-.05	Procedures for Licensure	0880-10-.17	Change of Address and/or Name
0880-10-.06	Fees	0880-10-.18	Reserved
0880-10-.07	Application Review, Approval, and Denial	0880-10-.19	Committee Members, Officers, Consultants and
0880-10-.08	Examinations		Records
0880-10-.09	Licensure Renewal and Reinstatement of an Expired	0880-10-.20	Advertising
	License	0880-10-.21	Reserved
0880-10-.10	Range of Services/Supervision	0880-10-.22	Universal Precautions for the Prevention of HIV
0880-10-.11	Retirement and Reactivation of License		Transmission
0880-10-.12	Continuing Education	0880-10-.23	Consumer Right-To-Know Requirements

0880-10-.01 DEFINITIONS. As used in these rules, the following terms and acronyms shall have the following meaning ascribed to them:

- (1) Advertising - Informational communication to the public in any manner to attract attention to the practice as an orthopedic physician assistant. Includes, but is not limited to business solicitation, with or without limiting qualifications, in a card, sign, or device issued to a person; in a sign or marking, in or on any building; or in any newspaper, magazine, directory, or other printed matter. Advertising also includes business solicitations communicated by individual, radio, video, or television broadcasting or other means designed to secure public attention.
- (2) A.M.A. - When the acronym A.M.A. appears in the text of these rules, A.M.A. represents the American Medical Association.
- (3) Applicant - Any individual seeking licensure by the Committee who has submitted an official application and paid the application fee.
- (4) Board - The Tennessee Board of Medical Examiners.
- (5) Closed Files - An administrative action which renders an incomplete or denied file inactive.
- (6) Committee - The Committee on Physician Assistants (C.O.P.A.).
- (7) Committee Administrative Office - The office of the administrator assigned to the Committee.
- (8) Committee Designee - Any person who has received a written delegation of authority from the Committee to perform Committee functions subject to review and ratification by the Committee and the Board where provided by these rules.
- (9) Consultant - Any person who has received a delegation of authority from the Committee to perform Committee functions subject to review and ratification by the Committee and Board where provided by these rules.

(Rule 0880-10-.01, continued)

- (10) Department - Tennessee Department of Health.
- (11) Division - The Division of Health Related Boards, Tennessee Department of Health, from which the Committee receives administrative support.
- (12) Fee - Money, gifts, services, or anything of value offered or received as compensation in return for rendering services; also, the required application fees.
- (13) Good Moral Character - The quality of being well regarded in professional ethics.
- (14) Graduate - An individual who has graduated from a C.O.P.A. approved orthopedic physician assistant program whose transcript shows that graduation has been completed.
- (15) He/she Him/her - When “he” appears in the text of these rules, the word represents both the feminine and masculine genders.
- (16) HRB - When the acronym HRB appears in the text of these rules, HRB represents the Health Related Boards.
- (17) License - The document issued by the Committee to an applicant who has completed the licensure process.
- (18) N.B.C.O.P.A - When the acronym N.B.C.O.P.A. appears in the text of these rules, N.B.C.O.P.A. represents the National Board for the Certification of Orthopedic Physician Assistants.
- (19) O.P.A. - When the acronym O.P.A. appears in the text of these rules, O.P.A. represents Orthopedic Physician Assistant.
- (20) Orthopedic Physician - A physician or surgeon licensed pursuant to Tennessee Code Annotated, Title 63, Chapter 6 or 9, who is specialty trained as an orthopedic physician or surgeon.
- (21) Person - Any individual, firm, corporation, partnership, organization, or body politic.
- (22) Physician - Any physician licensed pursuant to T.C.A. Title 63, Chapters 6 or 9.
- (23) T.A.P.A. - When the acronym T.A.P.A. appears in the text of these rules, T.A.P.A. represents the Tennessee Academy of Physician Assistants.
- (24) Use of Title or Description - To hold oneself out to the public as having a particular status by means of stating on signs, mailboxes, address plates, telephone listings, stationery, announcements, business cards, or other means of professional identification.
- (25) Written Evidence - Includes, but is not limited to, written verification from supervisors or other professional colleagues familiar with the applicant’s work.
- (26) Written Protocol - A jointly developed written statement by the supervising orthopedic physician and orthopedic physician assistant. Includes, but not limited to, problems and conditions likely to be encountered by the orthopedic physician assistant and the appropriate treatment for these problems and conditions. This protocol will establish a practice specific range of approved tasks, problems, and conditions. These protocols shall be signed by both the supervising orthopedic physician and the orthopedic physician assistant and reviewed at least every two (2) years.

(Rule 0880-10-.01, continued)

Authority: T.C.A. §§4-5-202, 4-5-204, 63-1-107, 63-1-115, 63-6-216, 63-19-102, 63-19-103, 63-19-104, 63-19-201, 63-19-203, 63-19-204, 63-19-205, 63-19-210, and 68-1-701. **Administrative History:** Original Rule filed July 10, 1997; effective September 23, 1997. Amendment filed June 10, 1998; effective October 28, 1998. Amendment filed June 25, 1998; effective October 30, 1998. Amendment filed August 28, 2002; effective November 11, 2002.

0880-10-.02 SCOPE OF PRACTICE.

- (1) An orthopedic physician assistant who holds state licensure in accordance with T.C.A. §63-19-202 may provide selected medical/surgical services only within specialty of orthopedic medicine, as outlined in a written protocol according to T.C.A. §63-19-204, and when such services are within his skills. The services delegated to the orthopedic physician assistant must form a usual component of the supervising orthopedic physician's scope of practice. Services rendered by the orthopedic physician assistant must be provided under the supervision, direction, and ultimate responsibility of a licensed orthopedic physician accountable to the Board of Medical Examiners or the Board of Osteopathic Examination.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-19-104, 63-19-201, 63-19-202, 63-19-203, 63-19-204, 63-19-205, 63-19-206, 63-19-207, and 63-19-208. **Administrative History:** Original Rule filed July 10, 1997; effective September 23, 1997. Amendment filed June 10, 1998; effective October 28, 1998.

0880-10-.03 NECESSITY OF LICENSURE.

- (1) Prior to the engagement of the practice as an orthopedic physician assistant in Tennessee, a person must hold a current Tennessee license unless exempted from licensure pursuant to T.C.A. §63-19-208.
- (2) It is unlawful for any person who is not licensed in the manner prescribed in T.C.A. §63-19-201 et seq. to represent himself as a licensed orthopedic physician assistant or to hold himself out to the public as being licensed by means of using a title on signs, mailboxes, address plates, stationery, announcements, telephone listings, calling cards, or other instruments of professional identification.
- (3) The profession of orthopedic physician assistant is one of the healing arts and as such the practice of which is restricted to those persons licensed by the Committee. Persons engaging in the practice as an orthopedic physician assistant without being licensed are in violation of T.C.A. §§63-19-202 and 63-19-206.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-1-116, 63-19-104, 63-19-201, 63-19-202, 63-19-206, and 63-19-208. **Administrative History:** Original Rule filed July 10, 1997; effective September 23, 1997. Amendment filed June 10, 1998; effective October 28, 1998.

0880-10-.04 QUALIFICATIONS FOR LICENSURE.

- (1) Pursuant to T.C.A. §63-19-202, the Committee and Board shall certify no person as an orthopedic physician assistant unless:
 - (a) The person is a graduate of an orthopedic physician assistant training program approved by the Committee and Board; and
 - (b) The person has successfully completed the examination of the N.B.C.O.P.A.

(Rule 0880-10-.04, continued)

- (2) Alternative to 0880-10-.04 (1), any person who meets both of the following criteria may be considered for licensure as an orthopedic physician assistant:
 - (a) The person was performing services as an orthopedic physician assistant in Tennessee on May 30, 1995 and can provide a notarized letter of verification of that employment; and
 - (b) The person can produce satisfactory evidence of having successfully completed the examination of the N.B.C.O.P.A.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-19-104, 63-19-105, 63-19-201, and 63-19-202. **Administrative History:** Original Rule filed July 10, 1997; effective September 23, 1997. Amendment filed June 10, 1998; effective October 28, 1998. Amendment filed April 19, 1999; effective July 3, 1999.

0880-10-.05 PROCEDURES FOR LICENSURE. To become licensed as an orthopedic physician assistant in Tennessee, a person must comply with the following procedures and requirements:

- (1) An application packet shall be requested from the Committee's administrative office.
- (2) An applicant shall respond truthfully and completely to every question or request for information contained in the application form and submit it along with all documentation and fees required by the form and rules to the Committee's Administrative Office. It is the intent of this rule that activities necessary to accomplish the filing of the required documentation be completed prior to filing an application and that all documentation be filed simultaneously.
- (3) An applicant shall submit with his application a signed and notarized passport type photograph taken within the preceding 12 months and the photo must be affixed to the proper page of the application.
- (4) It is the applicant's responsibility to request that a graduate transcript, from an orthopedic physician assistant education program approved by the Committee and Board, be submitted directly from the program to the Committee's Administrative Office. The transcript must show that graduation has been completed and carry the official seal of the institution.
- (5) An applicant shall submit evidence of good moral character. Such evidence shall be two recent (within the preceding 12 months) original letters from medical professionals, attesting to the applicant's personal character and professional ethics on the signator's letterhead.
- (6) If the applicant intends to immediately commence practice upon licensure he or she must designate a primary supervising orthopedic physician and shall submit directly to the Committee's Administrative Office a letter attesting to the status. Any change in the primary supervising orthopedic physician must be reported in the same manner by the orthopedic physician assistant.
- (7) An applicant shall disclose the circumstances surrounding any of the following:
 - (a) Conviction of any criminal law violation of any country, state or municipality, except minor traffic violations.
 - (b) The denial of professional licensure/certification application by any other state or the discipline of licensure/certification in any state.
 - (c) Loss or restriction of licensure/certification.

(Rule 0880-10-.05, continued)

- (d) Any civil suit judgment or civil suit settlement in which the applicant was a party defendant including, without limitation, actions involving malpractice, breach of contract, antitrust activity or any other civil action remedy recognized under the country's or state's statutory common or case law.
- (e) Failure of any licensure or certification examination.
- (8) If an applicant holds or has ever held a license/certificate to practice any profession in any other state, the applicant shall cause to be submitted the equivalent of a Tennessee Certificate of Endorsement (verification of licensure/certification) from each such licensing board which indicates the applicant holds or held an active license/certificate and whether it is in good standing presently or was at the time it became inactive.
- (9) An applicant shall submit the Application Fee and State Regulatory Fee as provided in Rule 0880-10-.06.
- (10) All applicants shall cause to be submitted documentation of successful completion of the examination for licensure as governed by Rule 0880-10-.08 once the exam has been successfully completed. This verification must be submitted by the examining agency directly to the Committee's Administrative Office.
- (11) When necessary, all required documents shall be translated into English and such translation and original document certified as to authenticity by the issuing source. Both versions must be submitted.
- (12) Personal resumes are not acceptable and will not be reviewed.
- (13) Application review and licensure decisions shall be governed by rule 0880-10-.07.
- (14) All documents submitted for qualification of licensure become the property of the State of Tennessee and will not be returned.
- (15) The application form is not acceptable if any portion has been executed and dated prior to one year before filing with the Committee. As used in this part, application means the application form approved by the Committee and shall include, as appropriate:
 - (a) Attached current, notarized passport photograph;
 - (b) Official college transcript from an orthopedic physician assistant training program;
 - (c) Verification of N.B.C.O.P.A. exam;
 - (d) Two (2) original letters of professional recommendation;
 - (e) Certificate of completion or Diploma from an approved orthopedic physician assistant program; and
 - (f) Certification/licensure from other state boards.
- (16) All applications shall be sworn to and signed by the applicant and notarized.

(Rule 0880-10-.05, continued)

Authority: T.C.A. §§4-5-202, 4-5-204, 63-19-104, 63-19-201, 63-19-202, 63-19-203, and 63-19-204.
Administrative History: Original Rule filed July 10, 1997; effective September 23, 1997. Amendment filed June 10, 1998; effective October 28, 1998. Amendment filed June 25, 1998; effective October 30, 1998.

0880-10-.06 FEES.

- (1) The fees are as follows:
 - (a) Application Fee - A fee to be paid by all applicants. This fee includes the Initial Licensure Fee and State Regulatory Fee. In cases where an applicant is denied licensure or the application file closes due to abandonment, only the portion pertaining to the Initial Licensure Fee and the portion of the State Regulatory Fee that applies to initial licensure will be refundable.
 - (b) Biennial Licensure Renewal Fee - A non-refundable fee to be paid prior to the issuance of the “artistically designed” license. This fee must be received on or before the expiration date of the license.
 - (c) Initial Licensure Fee - A fee to be paid at the time of application for initial licensure after approval by the Committee on Physician Assistants and the Board of Medical Examiners.
 - (d) Late Renewal Fee - A non-refundable fee to be paid when a license holder fails to renew his license on or before the expiration date on the license. This is an additional fee which must be submitted with the Biennial Licensure Renewal Fee and State Regulatory Fee.
 - (e) Replacement License Fee - A non-refundable fee to be paid when an individual requests a replacement for a lost or destroyed “artistically designed” wall license or renewal certificate.
 - (f) State Regulatory Fee - A fee to be paid by all individuals at the time of application and with all renewal applications.
- (2) All fees must be submitted to the Committee’s administrative office by cashier’s check, personal check or money order. Checks or money orders are to be made payable to the Committee on Physician Assistants.
- (3) Fee Schedule:

	Amount
(a) Application Fee (Total)	\$ 335.00
1. Application Fee	\$ 75.00
2. Initial Licensure Fee	\$ 250.00
3. State Regulatory Fee	\$ 10.00
(b) Biennial Licensure Renewal Fee	\$ 250.00
(c) Late Renewal Fee	\$ 50.00
(d) Replacement License Fee	\$ 25.00
(e) State Regulatory (biennial)	\$ 10.00

(Rule 0880-10-.06, continued)

- (4) Total Application Fee must be paid at the time of application.

Authority: T.C.A. §§4-3-1011, 4-5-202, 4-5-204, 63-1-103, 63-1-106, 63-1-108, 63-1-112, 63-19-104, and 63-19-201. **Administrative History:** Original Rule filed July 10, 1997; effective September 23, 1997. Amendment filed June 10, 1998; effective October 28, 1998.

0880-10-.07 APPLICATION REVIEW, APPROVAL AND DENIAL.

- (1) An application packet shall be requested from the committee's administrative office.
- (2) Review of all applications to determine whether or not the application file is complete may be delegated to the Committee's Administrator.
- (3) If an application is incomplete when received by the Committee's Administrative Office, or the reviewing Committee member or the Committee consultant determine additional information is required from an applicant before an initial determination can be made, the Committee's Administrative Office shall notify the applicant of the information required.
- (a) The applicant shall cause the requested information to be received by the Committee's administrative office on or before the ninetieth (90th) day after the initial letter notifying the applicant of the required information is sent.
- (b) If requested information is not timely received, the application file may be considered abandoned and may be closed by the Committee's administrator. If that occurs, the applicant shall be notified that the Committee will not consider issuance of a license until a new application is received pursuant to the rules governing that process, including another payment of all fees applicable to the applicant's circumstances and submission of such new supporting documents as is required by the Committee or the Committee's consultant.
- (4) If a license is denied, limited, conditioned or restricted by the Committee and subsequently by the Board, the denial, limitation, condition or restriction shall become final and the following shall occur:
- (a) A notification of the denial, limitation, condition or restriction shall be sent by the Committee's Administrative Office by certified mail, return receipt requested. Specific reasons for denial, limitation, condition or restriction will be stated, such as incomplete information, unofficial records, examination failure, or matters judged insufficient for licensure, and such notification shall contain all the specific statutory or rule authorities for the denial, limitation, condition or restriction.
- (b) The notification, when appropriate, shall also contain a statement of the applicant's right to request a contested case hearing under the Tennessee Administrative Procedures Act (T.C.A. §§4-5-301 et seq.) to contest the denial, limitation, condition or restriction and the procedure necessary to accomplish that action.
1. An applicant has a right to a contested case hearing only if the adverse decision on an application was based upon subjective or discretionary criteria and only if the request is in writing and received on or before the thirtieth (30th) day after receipt of the notice by the applicant.
 2. An applicant may be granted a contested case hearing if the licensure denial, limitation, condition or restriction is based on an objective, clearly defined criteria only if after

(Rule 0880-10-.07, continued)

review and attempted resolution by the Committee's Administrative Staff, the application can not be approved and the reasons for continued denial, limitation, condition or restriction present genuine issues of fact and/or law which are appropriate for appeal. Requests for a hearing must be made in writing to the Committee within 30 days of the receipt of the notice of denial, limitation, condition or restriction from the Committee.

- (5) If the Committee finds it has erred in the issuance of a license, the Committee will give written notice by certified mail of its intent to revoke the license. The notice will allow the applicant the opportunity to meet the requirements for licensure within thirty (30) days from the date of receipt of the notification. If the applicant does not concur with the stated reason and the intent to revoke the license, the applicant shall have the right to proceed according to rule 0880-10-.07(4)(b).

Authority: T.C.A. §§4-5-102(3), 4-5-202, 4-5-204, 4-5-301 et seq., 63-19-104, 63-19-111, 63-19-105, 63-19-201, 63-19-202, and 63-19-206. **Administrative History:** Original Rule filed July 10, 1997; effective September 23, 1997. Amendment filed June 10, 1998; effective October 28, 1998. Amendment filed September 11, 1998; effective November 25, 1998. Amendment filed August 6, 2002; effective October 20, 2002. Amendment filed August 28, 2002; effective November 11, 2002.

0880-10-.08 EXAMINATIONS.

- (1) Licensure Examination - All persons intending to apply for licensure as an orthopedic physician assistant in Tennessee must successfully complete an examination pursuant to this Rule. Such examination must be completed prior to application for permanent licensure. Evidence of successful completion must be submitted by the examining agency directly to the Committee Administrative Office as part of the application process contained in Rule 0880-10-.05.
 - (a) The Committee and Board adopt the N.B.C.O.P.A. examination or its successor examination as its licensure examination. Successful completion of examination is a prerequisite to licensure pursuant to Rule 0880-10-.04(1)(b).
 - (b) The Committee and Board adopt the N.B.C.O.P.A. determination as to the passing score on its examination.
 - (c) Application for and fees necessary to take the N.B.C.O.P.A. examination must be sent to the N.B.C.O.P.A. and not the Committee.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-19-104, 63-19-201, and 63-19-202. **Administrative History:** Original Rule filed July 10, 1997; effective September 23, 1997. Amendment filed June 10, 1998; effective October 28, 1998.

0880-10-.09 LICENSURE RENEWAL AND REINSTATEMENT OF AN EXPIRED LICENSE.

- (1) All orthopedic physician assistants must renew their licenses to be able to legally continue in practice. License renewal is governed by the following:
 - (a) The due date for license renewal is its expiration date which is the last day of the month in which a license holder's birthday falls pursuant to the Division of Health Related Boards "biennial birthdate renewal system" contained in rule 1200-10-1-.10.
 - (b) Methods of Renewal - Licensees may accomplish renewal by one of the following methods:

(Rule 0880-10-.09, continued)

1. Internet Renewals - Individuals may apply for renewal via the Internet. The application to renew can be accessed at:

www.tennesseeanytime.org
2. Paper Renewals - Licensees who have not renewed their authorization online via the Internet, will have a renewal application form mailed to them at the last address provided by them to the Committee. Failure to receive such notification does not relieve the individual of the responsibility of timely meeting all requirements for renewal. To be eligible for renewal a licensee must submit to the Division of Health Related Boards on or before the license's expiration date the following:
 - (i) A completed and signed renewal application form.
 - (ii) The renewal and state regulatory fees as provided in Rule 0880-10-.06.
- (c) Any renewal application received after the expiration date but before the last day of the month following the expiration date must be accompanied by the Late Renewal Fee provided in Rule 0880-10-.06.
- (d) Any individual who fails to comply with the license renewal rules and/or notifications sent to them concerning failure to timely renew shall have their license processed pursuant to rule 1200-10-1-.10.
- (e) Anyone submitting a signed renewal form or letter which is found to be untrue may be subject to disciplinary action as provided in Rule 0880-10-.15.
- (f) Any license holder who receives notice of licensure expiration may, within thirty (30) days of receipt of the notice pursuant to Rule 0880-10-.11, execute and file in the Board's administrative office an affidavit of retirement which will effectively retire the license as of the thirtieth (30th) day after the renewal due date.
- (2) Reinstatement of Expired Licenses - Reinstatement of a license that has expired pursuant to rule 1200-10-1-.10 may be accomplished upon meeting the following conditions:
 - (a) Submission of a completed reinstatement application; and
 - (b) Payment of all past due renewal fees, including late renewal fee; and
 - (c) Proof of the required continuing education.
- (3) Renewal and reinstatement decisions pursuant to this rule may be made administratively and are subject to Committee and Board review.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-1-107, 63-19-104, 63-19-201, 63-19-206, and 63-19-209.
Administrative History: Original Rule filed July 10, 1997; effective September 23, 1997. Amendment filed June 10, 1998; effective October 28, 1998. Amendment filed June 25, 1998; effective October 30, 1998. Amendment filed August 28, 2002; effective November 11, 2002.

0880-10-.10 RANGE OF SERVICES/SUPERVISION.

(Rule 0880-10-.10, continued)

- (1) Supervision is defined as the active and continuous overview of the orthopedic physician assistant's services to ensure that the supervising orthopedic physician's directions and orders are being implemented properly. The constant physical presence of the orthopedic physician is not required so long as the supervising orthopedic physician and the orthopedic physician assistant are, or can be, immediately in contact with each other by radio, telephone, or telecommunications while the services are being provided. An appropriate degree of supervision includes personal and regular (at least weekly) review of all patient records by the supervising orthopedic physician, as indicated by the physician's signature/initials.
- (2) A supervising orthopedic physician may supervise a maximum of two (2) orthopedic physician assistants.
- (3) An orthopedic physician assistant may provide only those services which are commensurate with the orthopedic physician assistant's education, training, and experience.
- (4) An orthopedic physician assistant may not make any definitive diagnosis or prescribe any treatment program except as set forth in the written protocol and procedures which have been established by the supervising orthopedic physician in consultation with the orthopedic physician assistant.
- (5) An orthopedic physician assistant may not write prescriptions for any drugs and may not use prescriptions which have been pre-signed by the supervising orthopedic physician or anyone else.
- (6) An orthopedic physician assistant may dispense only those medications which have been contemporaneously approved for a patient by the supervising orthopedic physician.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-19-104, 63-19-201, 63-19-203, 63-19-204, 63-19-205, 63-19-206, 63-19-207, and 63-19-208. **Administrative History:** Original Rule filed July 10, 1997; effective September 23, 1997. Amendment filed June 10, 1998; effective October 28, 1998.

0880-10-.11 RETIREMENT AND REACTIVATION OF LICENSE.

- (1) A person who holds a current license and does not intend to practice as an orthopedic physician assistant may apply to convert an active license to inactive ("retired") status. An individual who holds a retired license will not be required to pay the renewal fee.
- (2) A person who holds an active license may apply for retired status in the following manner:
 - (a) Obtain, complete, and submit to the Committee's Administrative Office, an affidavit of retirement form.
 - (b) Submit any documentation which may be required to the Committee's Administrative Office.
- (3) License holders whose license has been retired may re-enter active status by doing the following:
 - (a) Submit a written request for license reactivation to the Committee's Administrative Office.
 - (b) Pay the license renewal fees and state regulatory fees as provided in Rule 0880-10-.06.
 - (c) If retirement reactivation is requested prior to the expiration of one year from the date of retirement, the Committee will require payment of the late renewal fee and past due renewal fee.

(Rule 0880-10-.11, continued)

- (4) License reactivation applications shall be treated as licensure applications and review decisions shall be governed by Rule 0880-10-.07.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-19-104, 63-19-201, 63-19-202, and 63-19-209. **Administrative History:** Original Rule filed July 10, 1997; effective September 23, 1997. Amendment filed June 10, 1998; effective October 28, 1998.

0880-10-.12 CONTINUING EDUCATION. All orthopedic physician assistants must comply with the following continuing education rules as a prerequisite to licensure renewal.

(1) Continuing Education - Hours Required

- (a) All orthopedic physician assistants must biennially complete sixty (60) hours of continuing medical education in courses approved by the A.M.A., N.B.C.O.P.A., or other associations approved by the Committee and Board.
- (b) The Committee approves a course for only the number of hours contained in the course. The approved hours of any individual course will not be counted more than once in a calendar year toward the required hourly total regardless of the number of times the course is attended or completed by any individual.
- (c) The committee may waive or otherwise modify the requirements of this rule in cases where there is retirement or an illness, disability or other undue hardship which prevents an orthopedic physician assistant from obtaining the requisite number of continuing education hours required for renewal. Requests for waivers or modification must be sent in writing to the Committee prior to the expiration of the renewal period in which the continuing education is due.

(2) Continuing Education - Proof of Compliance

- (a) The due date for completion of the required continuing education is the expiration date of the orthopedic physician assistant's licensure renewal.
- (b) All orthopedic physician assistants must, on the licensure renewal form, enter a signature which indicates completion of the required continuing education hours and that such hours were obtained during the calendar years of report.
- (c) All orthopedic physician assistants must retain independent documentation of completion of all continuing education hours. This documentation must be retained for a period of four (4) years from the end of the renewal period in which the continuing education was acquired. This documentation must be produced for inspection and verification, if requested in writing by the Committee during its verification process. This documentation must consist of one or more of the following:
 - 1. Certificates verifying the licensed individual's completion of the continuing education program(s). The certificates must include the following: Continuing education program's sponsor, date, length in minutes awarded (continuing education units must be converted to clock hours), program title, licensed individual's name, license number and social security number.

(Rule 0880-10-.12, continued)

2. An original letter on official stationery from the continuing education program's sponsor indicating date, length in minutes awarded (continuing education units must be converted to clock hours), program title, licensed individual's name, license number and social security number.
- (d) If a person submits documentation for training that is not clearly identifiable as appropriate continuing education, the Committee will request a written description of the training and how it applies to the practice as an orthopedic physician assistant. If the Committee determines that the training cannot be considered appropriate continuing education, the individual will be given ninety (90) days to replace the hours not allowed. Those hours will be considered replacement hours and cannot be counted during the next renewal period.
- (3) Acceptable continuing education - To be utilized for satisfaction of the continuing education requirements of this rule, the continuing education program must be approved in content, structure and format by either the A.M.A., N.B.C.O.P.A., or other associations approved by the Committee and Board.
- (4) Violations
 - (a) Any orthopedic physician assistant who falsely attests to completion of the required hours of continuing education may be subject to disciplinary action pursuant to Rule 0880-10-.15.
 - (b) Any orthopedic physician assistant who fails to obtain the required continuing education hours may be subject to disciplinary action pursuant to Rule 0880-10-.15 and may not be allowed to renew licensure.
 - (c) Education hours obtained as a result of compliance with the terms of a Committee or Board order in any disciplinary action shall not be credited toward the continuing education hours required to be obtained in any renewal period.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-1-107, 63-19-104, and 63-19-201. **Administrative History:** Original Rule filed July 10, 1997; effective September 23, 1997. Amendment filed June 10, 1998; effective October 28, 1998. Amendment filed June 25, 1998; effective October 30, 1998. Amendment filed July 31, 2000; effective October 31.

0880-10-.13 PROFESSIONAL ETHICS. The Committee on Physician Assistants may utilize as guidelines T.A.P.A.'s code of ethics. Violation of this Rule may subject the orthopedic physician assistant to disciplinary action pursuant to Rule 0880-10-.15.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-19-104, 63-19-201, 63-19-206, 63-19-207, and 63-19-210. **Administrative History:** Original Rule filed July 10, 1997; effective September 23, 1997. Amendment filed June 10, 1998; effective October 28, 1998.

0880-10-.14 RESERVED.

0880-10-.15 DISCIPLINARY GROUNDS, ACTIONS, AND CIVIL PENALTIES.

- (1) Grounds and Authority For Disciplinary Actions - The Board and the Committee shall have the power to deny, limit, restrict or condition an application for a license to any applicant who applies for the same. The Board and Committee shall have the authority to suspend or revoke, reprimand or otherwise discipline any person holding a license to practice as an orthopedic physician assistant.

(Rule 0880-10-.15, continued)

The grounds upon which the Board and Committee shall exercise such power includes, but are not limited to, the following:

- (a) Unprofessional, dishonorable, or unethical conduct;
- (b) Violation or attempted violation, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provision of the Orthopedic Physician Assistants Act or any lawful order of the Committee and Board issued pursuant thereto, or any criminal statute of the state of Tennessee;
- (c) Making false statements or representations, being guilty of fraud or deceit in obtaining admission to practice, or being guilty of fraud or deceit in the practice as an orthopedic physician assistant;
- (d) Gross malpractice, or a pattern of continued or repeated malpractice, ignorance, negligence or incompetence in the course of practice as an orthopedic physician assistant;
- (e) Habitual intoxication or personal misuse of any drugs or the use of intoxicating liquors, narcotics, controlled substances, or other drugs or stimulants in such manner as to adversely affect the person's ability to practice as an orthopedic physician assistant;
- (f) Violation of the laws governing abortion;
- (g) Willfully betraying a professional secret;
- (h) The advertising of orthopedic physician assistant business in which untrue or misleading statements are made, or causing the publication or circulation of fraudulent advertising relative to any disease, human ailment, or conditions;
- (i) Willful violation of the rules and regulations promulgated by the Board and the Committee to regulate advertising by practitioners who are under the jurisdiction of such board;
- (j) Conviction of a felony, conviction of any offense under state or federal drug laws, or conviction of any offense involving moral turpitude;
- (k) Making or signing in one's professional capacity any certificate that is known to be false at the time one makes or signs such certificate;
- (l) Dispensing, prescribing, or otherwise distributing any controlled substance or any other drug not in the course of professional practice, or not in good faith to relieve pain and suffering, or not to cure an ailment, physical infirmity or disease;
- (m) Dispensing, prescribing, or otherwise distributing any controlled substance to any person in violation of any law of the state or of the United States of America or any rule of the Board or Committee;
- (n) Offering, undertaking, or agreeing to cure or treat a disease, injury, ailment or infirmity by a secret means, method, device or instrumentality;
- (o) Giving or receiving, or aiding or abetting the giving or receiving of rebates, either directly or indirectly for referrals of business or patients;

(Rule 0880-10-.15, continued)

- (p) Engaging in the practice of an orthopedic physician assistant under a false or assumed name, or the impersonation of another practitioner, or a like, similar or different name;
 - (q) Engaging in the practice of an orthopedic physician assistant when mentally or physically unable to safely do so;
 - (r) Violation of the continuing education provisions of Rule 0880-10-.12; and
 - (s) Violation of the scope of practice statutes T.C.A. §§63-19-203 through 63-19-205 and Rules 0880-10-.02 and 0880-10-.10.
 - (t) Violation of prescribing statutes.
 - (u) Disciplinary action against a person licensed, certified, registered, or permitted to practice as an orthopedic physician assistant by another state or territory of the United States for any acts or omissions which would constitute grounds for discipline of a person licensed in this state. A certified copy of the initial or final order or other equivalent document memorializing the disciplinary action from the disciplining state or territory shall constitute prima facie evidence of violation of this section and be sufficient grounds upon which to deny, restrict or condition licensure or renewal and/or discipline a person licensed in this state.
- (2) Upon a finding by the Board and Committee that an orthopedic physician assistant has violated any provision of the Orthopedic Physician Assistants Act (T.C.A. §63-19-201 et seq.) or the rules promulgated pursuant thereto, the Board and Committee may take any of the following actions separately or in any combination which is deemed appropriate to the offense;
- (a) Advisory Censure - This is a written action issued for minor or near infractions. It is informal and advisory in nature and does not constitute a formal disciplinary action.
 - (b) Formal Censure or Reprimand - This is a written action issued for one time and less severe violations. It is a formal disciplinary action.
 - (c) Probation - This is a formal disciplinary action which places an orthopedic physician assistant on close scrutiny for a fixed period of time. This action may be combined with conditions which must be met before probation will be lifted and/or which restrict the individual's activities during the probationary period.
 - (d) License Suspension - This is a formal disciplinary action which suspends the right to practice for a fixed period of time. It contemplates the re-entry into practice under the license previously issued.
 - (e) License Revocation - This is the most severe form of disciplinary action which removes a license holder from the practice of the profession and terminates the certification or licensure previously issued. The Committee, in its discretion, may allow reinstatement of a revoked license upon conditions and after a period of time that it deems appropriate. However, No petition for reinstatement and no new application for licensure from a person whose license was revoked shall be considered prior to the expiration of at least one (1) year unless otherwise stated in the Committee's revocation order.
 - (f) Conditions - Any action deemed appropriate by the Board and Committee to be required of a disciplined license holder during any period of probation or suspension or as a pre-requisite to the lifting of probation or suspension or the reinstatement of a revoked license.

(Rule 0880-10-.15, continued)

- (g) Civil Penalty - A monetary disciplinary action assessed by the Board and Committee pursuant to paragraph (3) of this Rule.
 - (h) Assessment of Costs - The imposition of a requirement that any person against whom sanctions have been imposed as a result of a disciplinary action pay the actual and reasonable costs of the investigation and prosecution of the case. When the Committee, in any final order, requires the "payment of costs", that requirements includes payment of the following:
 - 1. All costs attributed to and assessed against the Committee by the Division's Bureau of Investigations and the Department of Health's Office of General Counsel in connection with the investigation and prosecution of the matter including all investigator and attorney time, travel and lodging as well as all depositions and court reporter fees.
 - 2. All costs assessed against the Committee by the Division for the use of the Division facilities and personnel for prosecution of the matter.
 - 3. All costs assessed against the Committee for the appearance fees, transcripts, time, travel and lodging of administrative law judges and court reporters required in the prosecution of the matter.
 - (i) Order Modifications - The Committee retains jurisdiction, and for good cause shown will entertain petitions, to modify the disciplinary portion of orders issued as a consequence of contested cases decided by it or any of its duly constituted panels, but will not under any circumstances consider modification of any findings of fact, conclusions of law, or policy reasons contained in the original orders. This provision shall not apply to a petition for reconsideration pursuant to T.C.A. § 4-5-317 timely filed with the Committee pursuant to a contested case.
- (3) Civil Penalties
- (a) Purpose - The purpose of this rule is to set out a schedule designating the minimum and maximum civil penalties which may be assessed pursuant to T.C.A. §63-1-134. The Committee and Board may assess these civil penalties in lieu of the civil penalties authorized by T.C.A. §63-19-201(b)(7).
 - (b) Schedule of Civil Penalties.
 - 1. A "Type A" Civil Penalty may be imposed whenever the Committee finds a person who is required to be licensed, certified, permitted, or authorized by the Committee, guilty of a willful and knowing violation of the Orthopedic Physician Assistants Act, or regulations promulgated pursuant thereto, to such an extent that there is, or is likely to be, an imminent, substantial threat to the health, safety and welfare of an individual patient or the public. For purposes of this section, willfully and knowingly practicing as an orthopedic physician assistant without a permit, license, certificate, or other authorization from the Committee is one of the violations of the Orthopedic Physician Assistants Act for which a "Type A" Civil Penalty is assessable.
 - 2. A "Type B" Civil Penalty may be imposed whenever the Committee finds the person required to be licensed, certified, permitted, or authorized by the Committee is guilty of a violation of the Orthopedic Physician Assistants Act or regulations promulgated

(Rule 0880-10-.15, continued)

pursuant thereto in such manner as to impact directly on the care of patients or the public.

3. A "Type C" Civil Penalty may be imposed whenever the Committee finds the person required to be licensed, certified, permitted, or authorized by the Committee is guilty of a violation of the Orthopedic Physician Assistants Act or regulations promulgated pursuant thereto, which are neither directly detrimental to the patients or public, nor directly impact their care, but have only an indirect relationship to patient care or the public.

(c) Amount of Civil Penalties.

1. "Type A" Civil Penalties shall be assessed in the amount of not less than \$500 nor more than \$1000.
2. "Type B" Civil Penalties may be assessed in the amount of not less than \$100 and not more than \$500.
3. "Type C" Civil Penalties may be assessed in the amount of not less than \$50 and not more than \$100.

(d) Procedures for Assessing Civil Penalties.

1. The Division of Health Related Boards may initiate a civil penalty assessment by filing a Memorandum of Assessment of Civil Penalty. The Division shall state in the memorandum the facts and law upon which it relies in alleging a violation, the proposed amount of the civil penalty and the basis for such penalty. The Division may incorporate the Memorandum of Assessment of Civil Penalty with a Notice of Charges which may be issued attendant thereto.
2. Civil Penalties may also be initiated and assessed by the Committee during consideration of any Notice of Charges. In addition, the Committee may, upon good cause shown, assess a type and amount of civil penalty which was not recommended by the Division.
3. In assessing the civil penalties pursuant to these rules the Committee may consider the following factors:
 - (i) Whether the amount imposed will be substantial economic deterrent to the violator;
 - (ii) The circumstances leading to the violation;
 - (iii) The severity of the violation and the risk of harm to the public;
 - (iv) The economic benefits gained by the violator as a result of non-compliance; and
 - (v) The interest of the public.
4. All proceedings for the assessment of civil penalties shall be governed by the contested case provisions of Title 4, Chapter 5, T.C.A.

(Rule 0880-10-.15, continued)

Authority: T.C.A. §§4-5-202, 4-5-204, 63-1-134, 63-19-104, 63-19-111, and 63-19-201. **Administrative History:** Original Rule filed July 10, 1997; effective September 23, 1997. Amendment filed June 10, 1998; effective October 28, 1998. Amendment filed June 25, 1998; effective October 30, 1998. Amendment filed July 31, 2000; effective October 14, 2000. Amendment filed August 28, 2002; effective November 11, 2002.

0880-10-.16 LICENSE.

- (1) Display of License -Every person licensed by the Committee in this state shall display his/her license in a conspicuous place in his/her office and, whenever required, exhibit such license to the Committee or its authorized representatives.
- (2) Replacement License -A license holder whose “artistically designed” license has been lost or destroyed may be issued a replacement document upon receipt of a written request in the Committee’s Administrative Office. Such request shall be accompanied by an affidavit (signed and notarized) stating the facts concerning the loss or destruction of the original document and the required fee pursuant to Rule 0880-10-.06.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-1-106, 63-19-104, and 63-19-201. **Administrative History:** Original Rule filed July 10, 1997; effective September 23, 1997. Amendment filed June 10, 1998; effective October 28, 1998.

0880-10-.17 CHANGE OF ADDRESS AND/OR NAME.

- (1) Change of Address - Each person holding a license who has had a change of address or place of employment, shall file in writing with the board his/her current address, giving both old and new addresses. Such requests shall be received in the Committee’s Administrative Office no later than 30 days after such change is effective and must reference the individual’s name, profession, social security number, and license number.
- (2) Change of Name - An individual registered with the Committee shall notify the Committee in writing within 30 days of a name change and will provide both the old and new names. A request for name change must also include a copy of the official document involved and reference the individual’s profession, board, social security, and license numbers.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-1-108, 63-19-104, and 63-19-201. **Administrative History:** Original Rule filed July 10, 1997; effective September 23, 1997. Amendment filed June 10, 1998; effective October 28, 1998.

0880-10-.18 RESERVED.

0880-10-.19 COMMITTEE MEMBERS, OFFICERS, CONSULTANTS, RECORDS AND DECLARATORY ORDERS.

- (1) The Committee shall at its first meeting after July 1 of each year elect from its members the following officers:
 - (a) Chairperson - who shall preside at all meetings of the Committee.
 - (b) Secretary - who along with the Committee Administrator shall be responsible for correspondence from the Committee.
- (2) The Committee has the authority to select a Committee consultant who shall serve as a consultant to the Division and who is vested with the authority to do the following acts:

(Rule 0880-10-.19, continued)

- (a) Review complaints and recommend whether and what type disciplinary actions should be instituted as the result of complaints received or investigations conducted by the Division.
 - (b) Recommend whether and upon what terms a complaint, case or disciplinary action might be settled. Any matter proposed for settlement must be subsequently reviewed, evaluated and ratified by the full Committee and full Board of Medical Examiners before it becomes effective.
 - (c) Undertake any other matter authorized by a majority vote of the Committee or Board of Medical Examiners.
- (3) Responsibilities of the Committee include, but are not limited to:
 - (a) Adopt and revise rules and regulations as may be necessary to carry out its powers and duties.
 - (b) Adopt and/or administer examinations;
 - (c) Examine for, deny, withhold, reactivate, and approve the license of applicants and renew licenses;
 - (d) Appoint designee(s) to assist in the performance of its duties; and
 - (e) Conduct hearings.
- (4) Records and Complaints
 - (a) Minutes of the Committee meetings and all records, documents, applications and correspondence will be maintained in the Committee's Administrative Offices.
 - (b) All requests, applications, notices, other communications and correspondence shall be directed to the Committee's Administrative Office. Any requests or inquiries requiring a Committee decision or official Committee action except documents relating to disciplinary actions, or hearing requests must be received fourteen (14) days prior to a scheduled meeting and will be retained in the Administrative Office and presented to the Committee at the Committee meeting. Such documents not timely received shall be set over to the next Committee meeting.
 - (c) All records of the Committee, except those made confidential by law, are open for inspection and examination, under the supervision of an employee of the Division at the Committee's Administrative Office during normal business hours.
 - (d) Copies of public records shall be provided to any person upon payment of a fee.
 - (e) All complaints should be directed to the Division's Investigations Section.
- (5) The Committee members or the Consultant are individually vested with the authority to do the following acts:
 - (a) Review and make determination on licensure, renewal and reactivation of licensure applications subject to the rules governing those respective applications and subject to the subsequent ratification by the Committee and Board.
 - (b) Serve as Consultant to the Division to decide the following:

(Rule 0880-10-.19, continued)

1. Whether and what type disciplinary actions should be instituted upon complaints received or investigations conducted by the Division.
 2. Whether and under what terms a complaint, case or disciplinary action might be settled. Any proposed settlement must be subsequently ratified by the Committee and Board.
- (6) The Committee may designate one (1) of its members or the Consultant to make determinations pursuant to Rule 1360-4-1-.18.
- (7) Requests for Verification of Licensure for Orthopedic Physician Assistants desiring to practice in another state must be made in writing to the Committee's Administrative Office.
- (8) Requests for duplicate or replacement Licenses must be made in writing to the Board Administrative Office and be accompanied by the fee provided in Rule 0880-10-.06.
- (9) Declaratory Orders - The Committee adopts, as if fully set out herein, rule 1200-10-1-.11, of the Division of Health Related Boards and as it may from time to time be amended, as its rule governing the declaratory order process. All declaratory order petitions involving statutes, rules or orders within the jurisdiction of the Committee shall be addressed by the Committee pursuant to that rule and not by the Division. Declaratory Order Petition forms can be obtained from the Committee's administrative office.

Authority: T.C.A. §§4-5-105, 4-5-202, 4-5-204, 4-5-223, 4-5-224, 63-1-115, 63-1-117, 63-19-104, 63-19-105, 63-19-201, 63-19-202, and 63-19-209. **Administrative History:** Original Rule filed July 10, 1997; effective September 23, 1997. Amendment filed June 10, 1998; effective October 28, 1998. Amendment filed April 19, 1999; effective July 3, 1999.

0880-10-.20 ADVERTISING. Fraudulent, misleading, or deceptive advertising is prohibited.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-1-116, 63-19-104, 63-19-201, and 63-19-210. **Administrative History:** Original Rule filed July 10, 1997; effective September 23, 1997. Amendment filed June 10, 1998; effective October 28, 1998.

0880-10-.21 RESERVED.

0880-10-.22 UNIVERSAL PRECAUTIONS FOR THE PREVENTION OF HIV TRANSMISSION. The proper application of infection control principles will minimize any risk of transmission of Human Immunodeficiency Virus (HIV) from Health Care Worker to patients, patient to Health Care Workers, or patient to patient. HIV infection alone does not justify or support limiting a Health Care Worker's professional duties. The current assessment of the risk that infected Health Care Workers will transmit HIV to patients during invasive procedures does not justify mandatory testing of Health Care Workers. Limitations, if any, should be determined on a case-by-case basis after consideration of the factors that influence transmission risk, including inability and/or unwillingness to comply with infection control standards and/or functional impairments which interfere with the job performance of the Health Care Worker.

- (1) Definitions - For the purpose of these regulations, the terms used herein are defined as follows:
 - (a) Chief Medical Officer - the state health officer, or his designee, appointed by the commissioner of health, who is responsible for and advises the Commissioner and department on all matters of state health policy, including public health.

(Rule 0880-10-.22, continued)

- (b) Commissioner - the Commissioner of Health or his designee.
 - (c) Health Care Worker (HCW) - Any orthopedic physician assistant whose activities involve contact with patients or with blood or other body fluids in a health care setting, including students, residents and trainees.
 - (d) Hospital HIV Confidential Expert Review Panel (Hospital HIV Review Panel) - As established by Tennessee Department of Health rules 1200-14-3-.01 to .03 this is a Tennessee hospital committee, appointed by the hospital Chief of Staff, composed and functioning in accordance with the guidelines of the American Hospital Association and the provisions of Tennessee Code Annotated, Section 63-6-219 which is convened with the purpose of establishing practice standards, on a case by case basis, for any HIV infected HCW, employed at or practicing their profession in the hospital, at the HCW's request.
 - (e) Tennessee Department of Health HIV Confidential Expert Review Panel (TDH HIV Review Panel) - As established by Tennessee Department of health rules 1200-14-3-.01 to .03 this is a Tennessee Department of Health committee, appointed by the Chief Medical Officer of the State, which is convened with the purpose of establishing practice standards for any HIV infected HCW.
 - (f) Universal Precautions - an approach to infection control according to which all human blood and certain human body fluids are to be treated as if known to be infectious for HIV and/or other blood-borne pathogens. In order to prevent the transmission of blood-borne infections, Universal Precautions requires the blanket implementation of infection control procedures, including, in regard to the use and disposal of needles and other sharp instruments, appropriate care and proper utilization of handwashing and protective barriers. Guidelines for Universal Precautions are published by the Centers for Disease Control and Prevention (CDC) and can be found in CDC Recommendations For Prevention of HIV Transmission In Health-Care Settings. [MMWR 1987; 36 (suppl. no. 2S) pp 1-18s] and CDC Update: Universal Precautions For Prevention of Transmission of Human Immunodeficiency Virus, Hepatitis B Virus, and Other Bloodborne Pathogens In Health Care Settings. [MMWR 1988; 37: pp 377-82, 387-8,] or their successor publications and/or more current updates.
- (2) Administration and Implementation of the Policy
- (a) All HCW's shall adhere to Universal Precautions in the provision of health care services. HCW's must comply with current guidelines for disinfection and sterilization of reusable devices used in medical procedures. All HCW's shall receive periodic training in infection control procedures, including Universal Precautions.
 - (b) All HCW's are encouraged to undergo personal assessments to determine their need for HIV testing. These assessments should include consideration of known high-risk behavior as well as risks associated with health care-related occupational exposure. If they are at risk, HCW's should determine their HIV status in order to protect and improve their health and to receive appropriate counseling. The decision to be tested for HIV is the responsibility of the individual HCW.
 - (c) Pursuant to Tennessee Department of Health rule 1200-14-3-.03, the Chief Medical Officer of the State of Tennessee will, at the request of an HIV infected HCW, convene an expert review panel to provide advice and give guidelines for assuring patient safety in the provision of the HCW's health care services.

(Rule 0880-10-.22, continued)

- (d) Pursuant to Tennessee Department of Health rule 1200-14-3-.03, the Chief Medical Officer of the State of Tennessee may, at the request of an HIV infected HCW, allow a Tennessee licensed hospital to convene a hospital based Hospital HIV Review Panel to provide advice and give guidelines for assuring patient safety in the provision of the HCW's health care services in lieu of presenting the matter to the TDH HIV Review Panel. All records and information held by the hospital for review by this panel relating to known or suspected cases of infection with HIV in any HCW are strictly confidential, shall not be released or made public by the Department or the hospital or the Hospital HIV Review Panel upon subpoena, court order, discovery, search warrant or otherwise, except as may be authorized under T.C.A. §§10-7-504(a), 63-6-219 or 68-10-113.
- (e) The review panel may recommend modification of procedures, notification of patients, or monitoring of restrictions if the panel determines that a significant risk of transmission to patients may exist. The recommendations of the review panel will then be set out in a written agreement and, if agreed to by the HCW, such agreement will be evidenced by the HCW's signature.
 - 1. If the infected HCW is dissatisfied with the recommendation of the Hospital HIV Review Panel, the HCW may appeal to the TDH HIV Review Panel for a de novo evaluation.
 - 2. If the infected HCW is dissatisfied with the recommendation of the TDH HIV Review Panel, the HCW may request a contested case hearing before the Commissioner, in the manner provided by the terms of the Tennessee Uniform Administrative Procedures Act (UAPA), Title 4, Chapter 5 of the Tennessee Code Annotated.
 - 3. Willful or knowing or repeated rejection or violation of the panel's recommendations by the HCW, or inability to follow the panel's recommendation because of mental or physical disease or defect, shall be reported to the Tennessee Department of Health Division of Health Related Boards as indicated by the evaluation, for appropriate disciplinary action.
- (f) In determining the advisability of voluntary HIV testing and in evaluating the medical practices of an infected HCW, the expert review panel and/or the individual HCW should refer to the current disease control guidelines established by the CDC and disease control standards recognized by national professional medical organizations. In addition, the panel should refer to the following:
 - 1. Many procedures pose negligible risk to the patient of exposure to infection through the HCW's blood when performed using standard infection control techniques, including Universal Precautions. Examples of these procedures include: physical examinations; blood pressure checks; eye examinations; phlebotomy; administration of intramuscular, intradermal or subcutaneous injections (i.e., vaccinations); needle biopsies, needle aspirations or lumbar punctures; angiographic procedures; vaginal, oral or rectal exams; endoscopic and bronchoscopic procedures; and insertion or maintenance of peripheral and central intravascular lines, nasogastric tubes, endotracheal tubes, rectal tubes or urinary catheters. Even if a HCW were to sustain an injury while performing these procedures, it is highly unlikely that the patient would be exposed to the HCW's blood. Thus, no restriction on performance of these procedures are necessary provided that standard infection control practices are used.

(Rule 0880-10-.22, continued)

2. Those HCW's for whom HIV counseling and testing has been previously recommended by the Public Health Services (PHS), due to occupational or non-occupational exposure to HIV, are encouraged to voluntarily ascertain their HIV antibody status. HCW's (1) who are infected with HIV, and (2) who perform surgical or obstetrical procedures that involve entry into tissues, cavities, or organs, should not continue to perform those procedures until they have sought counsel from the expert review panel.
3. Among the items the review panel should consider, on an individual basis, in evaluation of an HIV seropositive HCW are the following:
 - (i) Whether the HCW performs procedures in which injury could result in contamination of a patient's body cavity, subcutaneous tissues, or mucuous membranes by the HCW's blood (e.g., procedures in which hands may be in contact with sharp instruments, objects, or sharp tissues inside a patient's body cavity, particularly when the hands are not completely visible);
 - (ii) Factors affecting the performance of procedures by the individual HCW (e.g., techniques used, skill and experience, and compliance with recommended infection control practices); and
 - (iii) The medical condition of the HCW (e.g., the presence of physical conditions or mental impairment that may interfere with the HCW's ability to perform these procedures safely).
4. Depending upon its individualized evaluation, the panel should determine whether or under what circumstances the HCW may continue to perform or be restricted from performing procedures. In some circumstances, the panel may recommend modification and monitoring of procedures performed by the HCW to decrease the risk.
 - (i) If the panel determines that this HCW's performance of all or certain procedures poses a significant risk of infection to patients, and such significant risk cannot be eliminated by reasonable accommodation, then the HCW should be restricted from performing such procedures.
 - (ii) If the panel determines that the HCW's performance does not pose a significant risk for infection of patients during the procedures within HCW's scope of practice, then no restrictions are indicated. Hence, notification of the patient regarding HCW's infection status prior to the performance of such procedures is not necessary.
- (g) HCW's whose practices are modified because of their HIV infection status should, whenever possible, be provided opportunities to continue appropriate patient-care activities. Career counseling and job retraining should be encouraged to promote the continued use of the HCW's talents, knowledge and skills.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-19-104, 63-19-201, and 68-11-222. **Administrative History:** Original Rule filed July 10, 1997; effective September 23, 1997. Amendment filed June 10, 1998; effective October 28, 1998.

0880-10-.23 CONSUMER RIGHT-TO-KNOW REQUIREMENTS.

(Rule 0880-10-.22, continued)

- (1) Malpractice Reporting Requirements - The threshold amount below which malpractice judgments, awards or settlements in which payments are awarded to complaining parties need not be reported pursuant to the “Health Care Consumer Right-To-Know-Act of 1998” shall be ten thousand dollars (\$10,000).
- (2) Criminal Conviction Reporting Requirements - For purposes of the “Health Care Consumer Right-To-Know-Act of 1998” the following criminal convictions must be reported:
 - (a) Conviction of any felony; and
 - (b) Conviction or adjudication of guilt for any misdemeanor, regardless of its classification, in which any element of the misdemeanor involves any one or more of the following:
 1. Sex.
 2. Alcohol or drugs.
 3. Physical injury or threat of injury to any person.
 4. Abuse or neglect of any minor, spouse or the elderly.
 5. Fraud or theft.
 6. Unlicensed practice of any health related profession regulated pursuant to T.C.A. Titles 63 or 68.
 - (c) If any misdemeanor conviction reported under this rule is ordered expunged, a copy of the order of expungement signed by the judge must be submitted to the Department before the conviction will be expunged from any profile.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-19-104, 63-51-105 (*Public Chapter 1073 of the Public Acts of 1998, Section 5, Subsection (5)*), and 63-51-106. **Administrative History:** Original rule filed February 10, 2000; effective April 25, 2000.